

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, JUNE 16, 2015
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Andrea Koczur, Paul Krabbenhoft, William Davis, Amos Baer, David Heng, Mike Hulett, Tim Brendemuhl

Members Absent: Jenny Mongeau, Dan Langseth

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Kat Ihle, Dean Engebretson (Knife River), Dan Sommerfeld (Knife River), Jim Bortnem, Allan Baer, Joel Baer, Jona Baer, Nathan Baer, Alicia Baer, Ron Klinker

Chair Paul Krabbenhoft called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

On motion by Andrea Koczur, seconded by Tom Jensen, and unanimously carried, the Commission approved the agenda with one addition under *Business Items*, requested by Tim Magnusson.

APPROVAL OF MINUTES

On motion by Amos Baer, seconded by Tim Brendemuhl, and unanimously carried, the Commission approved the minutes from May 19, 2015 with one change: Delete Jenny Samarzja's name under *Others Present*.

CITIZENS TO BE HEARD

There were none.

KNIFE RIVER – INTERIM USE REQUEST / EAW – AGGREGATE MINING

The applicant is seeking approval of an Interim Use Permit to allow for an expansion, (from 30 acres to 88 acres) of an aggregate mining operation. The affected property is located in the Southeast Quarter, less the Northeast Quarter of the Southeast Quarter, Section 25, T141N, R46W (Flowing Township). Said property is located in the Agricultural General (AG) and Resource Protection – Aggregate (RP-Agg) Zoning Districts. An Environmental Assessment Worksheet (EAW) has been completed for this expansion project with the comment period ending on May 27, 2015.

On motion by Amos Baer, seconded by Mike Hulett, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, stated that the mining expansion project reached the threshold (over 40 acres) for a mandatory EAW and the 30-day comment period for the

EAW ended on May 27. Comment letters on the mining expansion project were received from Minnesota Pollution Control Agency (MPCA) and Minnesota Historical Society. MPCA's letter simply stated that they have no comments at this time; and the Historical Society's letter noted that there are no properties listed in the National or State Registers of Historical Places, and no known or suspected archaeological properties in the area that will be affected by this project. Magnusson stated that there are two calcareous fens not far from this site; however, the applicant does not intend to mine into the water and there is no dewatering practice intended.

On motion by Amos Baer, seconded by Tom Jensen, and unanimously carried the Planning Commission declared a negative declaration on Knife River's Environmental Assessment Worksheet (EAW) to expand a mining operation to 88 acres in size. No additional environmental work is needed.

Magnusson displayed aerials of the proposed mining site and expansion area. He pointed out the other mining operations in the area. He noted that there is one wetland on this site. After mining is completed, the applicant intends to reclaim the property to an agricultural use with four to one slopes on the ridge. The property provides frontage on 170 St N, a township road, and is located about one mile north of the intersection of 170 St N and 90 Ave N (Co. Rd 26). The township road is under a maintenance contract with the Co. Highway Department. There is one home located along 170 St N. near the south end north of 90 Ave, and the applicant will need to establish dust control measures to minimize any hauling impact. Operations at this site are requested to run normally from at least April thru November, Monday thru Saturday, 24 hours a day. There were a couple different routes shown on an aerial pending where the aggregate material is headed.

The staff recommendation is to make the following changes to the conditions of the existing Knife River Mining IUP: Permit shall expire on December 31, ~~2022~~ **2025**; and a maximum of ~~30~~ **88** acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc.) as shown on attached aerial photo. Also, condition 11 can be removed because there are no trees on the site. The County has a 50-foot setback from wetlands for any type of construction or operation. If the applicant has any questions on the wetland, he should contact the SWCD office. The Planning office did not receive any comments from the one resident along the haul road nor anyone else within a half mile from the site.

Ron Klinker, representing Knife River, stated that the nearest calcareous fens are approximately one mile away. In response to questions, he noted that there are no trees on the site and the mining operation will drain away from the wetland. The slope of the land is to the west and southwest and there is no standing water on site at this time. They have already staked off 100 feet from the designated wetland area. The site manager will routinely apply calcium chloride. The applicant noted that a bond of \$1,000 per acre was on their existing permit and is consistent with other counties. He also agreed to an end date of 2025.

Chair Krabbenhoft asked if there was anyone who wanted to speak for or against the proposal.

On motion by Amos Baer, seconded by Andrea Koczur, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact for Conditional Use Permits were referenced from the original hearing and there were no further concerns from the Planning Commissioners.

On motion by Amos Baer, seconded by Tom Jensen, and unanimously carried, the Planning Commission approved an amendment to Conditional (Interim) Use Permit #708171 (dated 6/4/2012) with the following changes to Conditions 1 and 6, and the deletion of Condition 11. Conditions are as follows:

1. **Permit shall expire on December 31, 2022 2025.**
2. **Operate within provisions of the Clay County Land Development Ordinance.**
3. **Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.**
4. **Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.**
5. **Operator shall contact Clay SWCD and have wetland evaluation completed before any mining commences. Operations must comply with all provisions of Wetlands Conservation Act.**
6. **Propose a maximum of 30 88 acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc.) as shown on attached aerial photo. If additional acres are to be opened in the future a new or amended IUP would be required.**
7. **Require applicant to post a reclamation bond of \$1,000 per acre.**
8. **Require applicant to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specification upon reclamation.**
9. **Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
10. **Require operator to present a detailed mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**
11. ~~**No trees can be removed to allow for mining operations.**~~

**JONA BAER, INC – REQUEST FOR CONDITIONAL USE PERMIT –
FEEDLOT EXPANSION**

The applicant is seeking approval of a Conditional Use Permit to allow the retrofitting of an existing poultry barn to install new cages and a manure air drying and conveyor system. The feedlot barn is located in the Southwest Quarter of the Southeast Quarter and the South Three Quarters the Southeast Quarter of the Southeast Quarter, Section 24, T139N, R44W (Egdon Township). Said property is located in the Agricultural General (AG) Zoning District.

Amos Baer recused himself from the public hearing because of his relationship to the

applicant.

On motion by Tom Jensen, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson stated that this request is for the retro-fitting of one layer barn and the construction of a new dry manure storage building. The barn will be retrofit by installing new battery cages, as well as a continuous air-flow manure drying and conveyor system. It will also include the construction of a 60-foot by 120-foot covered manure storage building with a concrete floor. The continuous air-flow manure drying system will allow for further drying of the manure before it is removed to the new manure storage building. The number of animals currently housed in this barn is 108,000. After retrofitting, the number of animals that will be housed in the barn will be 183,000. This particular facility has undergone an Environmental Assessment Worksheet (EAW) in 2011. A negative declaration was made for additional environmental review at that time. The Responsible Governmental Unit conducting the EAW was the Minnesota Pollution Control Agency.

Magnusson reported that the proposed expansion meets all of Clay County's minimum setback requirements. The nearest residences, other than those of the owner/operator and family are located over 2,500 feet away from the present barn. Currently, composting manure is on the west side of the road, and that should be closed after the retrofit is done, which Magnusson noted will be a huge improvement at the site. The residences in this area are few and far between. There are none to the south, and none to the east (Becker County). Most residential sites in this area belong to different members of the same Baer family. The applicant has a National Pollution Discharge Elimination System (NPDES) umbrella permit for his feedlot facilities, issued by the State of Minnesota. The Planning Office did not receive any comments on the public notices that were sent to landowners within a half mile and township officers.

The applicant, Jona Baer, stated that the current compost site was discontinued last week, and the compost pile will be discontinued within 12 months. Odor and fly issues have been solved at other sites with the manure air drying and conveyor system. No one is even aware of when manure is hauled when using this system for manure. Magnusson added that this is really an impressive facility. He noted that the building will also be a lot tighter and have better air control with screened vents that may even help with bird flu.

Jim Bortnem stated that the Eglon Township Board is in support of the request and mentioned the success with the retrofit barns and new manure handling systems.

The following information is from the current Land Development Ordinance:

Animal feedlots in any district shall meet the following standards:

- A. Compliance with State and Federal Regulations: All feedlots shall comply with state and federal feedlot or confined animal feeding operation regulations.
- B. Registration: Feedlot owners shall provide proof that they are registered in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.
- C. Notification of County Planning Department: Owners of newly established or expanding feedlots shall provide a copy of the registration required in B., above, to the Clay County Planning Department within five (5) days of registration.
- D. Manure Storage: Animal waste produced by an animal feedlot or stable facility shall not be stored

- within three hundred feet (300') of edge of a drainage ditch, wetland or public water.
- E. Manure Spreading: Application of manure shall be setback the following distances from dwellings, churches, campgrounds and any incorporated municipality:
 - a. One hundred fifty feet (150') if incorporated within forty eight (48) hours.
 - b. Three hundred feet (300') if not incorporated
 - F. Standards for Feedlots within Shoreland Districts:
 - 1. New Feedlots: New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and
 - 2. Modifications, Expansions: Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
 - G. Permit for Feedlots with Under 250 Animal Units: Feedlots with more than forty-nine (49) but less than two hundred fifty (250) animal units shall obtain a permit from the Zoning Administrator verifying that requirements of this Ordinance are met. The permit application shall be accompanied by a site plan indicating structures and feeding areas, and by proof that the proposed feedlot meets state requirements.
 - 1. Setbacks: Animal feedlots of more than forty-nine (49) and less than two hundred fifty (250) animal units and their associated manure storage areas shall maintain following setbacks:

Table 8-6-1 Required Structure Setbacks From Animal Feedlots

Use of structure on adjacent property	Setback required from animal feedlot with total confinement	Setback required from all other animal feedlots
Residence	1,000 feet	1,320 feet (1/4 mile)
All other uses	1,320 feet (1/4 mile)	2,000 feet

- 2. Additional Setbacks for New Feedlots:
 - a. Two (2) miles from any incorporated community or one-half (1/2) mile from any platted subdivision.
 - b. One-hundred feet (100') from property lines, rights of way and ditches (to include a 2 rod grass buffer strip adjacent to ditch).
- 3. Responsibility: Incorporating structure setbacks in Table 8-5D-1 shall be the sole responsibility of the landowner proposing a new use whether it is the feedlot landowner or the landowner adjacent to an existing feedlot. New development must maintain the same setbacks from an existing feedlot as a new feedlot would be required to maintain from an existing development of the same type.
- 4. Measurement: The setbacks shall be measured horizontally and in a straight line, from the closest point of a structure, use, lagoon or district to the closest point of another structure, use, lagoon or district.
- H. Feedlots with two-hundred fifty (250) or more animal units shall require a conditional use permit and shall comply with the provisions in subsections A through F of this Section. Conditional feedlots shall not be permitted to have lesser setback than the requirements for smaller feedlots in subsection G.

Chair Krabbenhoft asked if there was anyone who wanted to speak for or against the proposal.

On motion by Tom Jensen, seconded by Dave Heng, and unanimously carried, the Planning Commission closed the public hearing.

The Planning Chair read the Findings of Fact for Conditional Use Permits and the Planning Commission did not feel that any items needed to be addressed further.

On motion by Tim Brendemuhl, seconded by Andrea Koczur, and unanimously carried, the Planning Commission approved the request for a Conditional Use Permit from Jona Baer, Inc for a feedlot expansion that includes retrofitting of an existing poultry barn to install new cages and increase the number of animal units and install a manure air drying and conveyor system in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{3}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24 Eglon Township with the following conditions:

- 1) CUP is for a facility containing 1,551 AU (State #); if AU numbers are ever increased it would require an amendment to the CUP;**
- 2) The facility shall maintain a current NPDES Permit for operation of a feedlot from the MPCA;**
- 3) The facility shall operate in accordance with Clay County Feedlot Standards.**

DAVID HENG - REQUEST FOR CONDITIONAL USE PERMIT – ESTABLISHMENT OF A FEEDLOT OPERATION

The applicant is seeking a Conditional Use Permit to place one (1) dairy heifer barn approximately 70-feet by 300-feet in size, on 10 acres of land that would be located in the North Half of the North Half of the Northeast Quarter, Section 24, T138N, R46W (Elkton Township). Said barn and outdoor feedlot area would cover approximately one acre of land for 700 head of dairy heifers and would be considered a partial-confinement facility. Said property is in the Agricultural General (AG) Zoning District.

Planning Commissioner David Heng recused himself from discussion and voting on this public hearing as he is also the applicant.

On motion by Tim Brendemuhl, seconded by Bill Davis, and unanimously carried, the Planning Commission opened the public hearing.

Magnusson stated that this would be a new feedlot operation. It is east of Downer and $\frac{3}{4}$ mile east of Henry's Acres Subdivision. The applicant received a Variance from the Board of Adjustment earlier this evening which granted a 900-foot setback from the proposed new barn to another structure. A condition of the variance is that manure stored at this site cannot be stored below grade. The 10-acre site will be utilized for the placement of one 70-foot by 300-foot partial confinement barn to hold a maximum of 700 animals (490 AU by State count, 700 AU by County count). It is designed to meet all applicable setbacks stipulated in the County Land Development Ordinance except the 1,320 foot setback from a residential structure other than the owners. Manure will be stockpiled (pen packs) onsite and it will be land-applied on property owned or leased/rented by the applicant at appropriate times of the year. It is the best location on the existing larger parcel of land. There are six-plus feet between the grade and the ground water. It is the highest ground and had a perfect rating for a feedlot by Scott Schroeder from the Minnesota Pollution Control Agency (MPCA). The open feedlot area will be to the south of the barn. The applicant's residential site is to the west of the proposed feedlot site. The nearest residential structure belongs to his uncle who is selling him 10 acres for the feedlot. All other property owners within one-half mile signed an agreement that they had no issues with the

proposed site. Magnusson displayed an aerial with a 500-foot radius around the proposed site. He noted that Craig Halverson is the current Clay County Feedlot Officer. According to the MNDNR Groundwater Pollution Sensitivity maps this location is also in an area of Very High Groundwater Pollution Potential. The actual feedlot site is, however, located on soils where the depth to groundwater is greater than 6 feet. There are no known aquifers located in this vicinity.

The applicant, David Heng, stated that he intends to have up to 700 heifers at the new site. He explained the 600-day process of raising and breeding dairy heifers.

The following information is from the Land Development Ordinance:

Animal feedlots in any district shall meet the following standards:

- A. Compliance with State and Federal Regulations: All feedlots shall comply with state and federal feedlot or confined animal feeding operation regulations.
- B. Registration: Feedlot owners shall provide proof that they are registered in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.
- C. Notification of County Planning Department: Owners of newly established or expanding feedlots shall provide a copy of the registration required in B, above, to the Clay County Planning Department within five (5) days of registration.
- D. Manure Storage: Animal waste produced by an animal feedlot or stable facility shall not be stored within three hundred feet (300') of edge of a drainage ditch, wetland or public water.
- E. Manure Spreading: Application of manure shall be setback the following distances from dwellings, churches, campgrounds and any incorporated municipality:
 - a. One hundred fifty feet (150') if incorporated within forty eight (48) hours.
 - b. Three hundred feet (300') if not incorporated
- F. Standards for Feedlots within Shoreland Districts:
 1. New Feedlots: New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and
 2. Modifications, Expansions: Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- G. Permit for Feedlots with Under 250 Animal Units: Feedlots with more than forty-nine (49) but less than two hundred fifty (250) animal units shall obtain a permit from the Zoning Administrator verifying that requirements of this Ordinance are met. The permit application shall be accompanied by a site plan indicating structures and feeding areas, and by proof that the proposed feedlot meets state requirements.
 1. Setbacks: Animal feedlots of more than forty-nine (49) and less than two hundred fifty (250) animal units and their associated manure storage areas shall maintain following setbacks:

Table 8-6-1 Required Structure Setbacks from Animal Feedlots

Use of structure on adjacent property	Setback required from animal feedlot with total confinement	Setback required from all other animal feedlots
Residence	1,000 feet	1,320 feet (1/4 mile)
All other uses	1,320 feet (1/4 mile)	2,000 feet

2. Additional Setbacks for New Feedlots:

- a. Two (2) miles from any incorporated community or one-half (1/2) mile from any platted subdivision.
- b. One-hundred feet (100') from property lines, rights of way and ditches (to include a 2 rod

- grass buffer strip adjacent to ditch).
3. Responsibility: Incorporating structure setbacks in Table 8-5D-1 shall be the sole responsibility of the landowner proposing a new use whether it is the feedlot landowner or the landowner adjacent to an existing feedlot. New development must maintain the same setbacks from an existing feedlot as a new feedlot would be required to maintain from an existing development of the same type.
 4. Measurement: The setbacks shall be measured horizontally and in a straight line, from the closest point of a structure, use, lagoon or district to the closest point of another structure, use, lagoon or district.
- H. Feedlots with two-hundred fifty (250) or more animal units shall require a conditional use permit and shall comply with the provisions in subsections A through F of this Section. Conditional feedlots shall not be permitted to have lesser setback than the requirements for smaller feedlots in subsection G.

Chair Krabbenhoft asked if there was anyone who wanted to speak for or against the proposal.

On motion by Andrea Koczur, seconded by Amos Baer, and unanimously carried, the Planning Commission closed the public hearing.

The Planning Chair read the Findings of Fact for Conditional Use Permits and the Planning Commission did not feel that any items needed to be addressed further. Access to the site should be right across from the access on the north side.

On motion by Andrea Koczur, seconded by Tom Jensen, and unanimously carried, the Planning Commission approved David Heng's request for a Conditional Use Permit to establish a new feedlot operation, for placement of a 70-foot by 300-foot dairy heifer barn on 10 acres of land that would be located in the N ½ N ½ NE ¼ Section 24 Elkton Township. Said barn and outdoor feedlot area would cover approximately one acre of land for 700 head of dairy heifers and would be considered a partial-confinement facility. The following conditions were placed on the permit:

- 1) Compliance with all appropriate setback & buffer strip requirements as per the Clay County Land Development Ordinance
- 2) Receipt and maintenance of appropriate State feedlot permit and stormwater management permit from MPCA. Copies of these documents to be filed with the Planning Office;
- 3) Access to the site off Co. Rd. 10 must be approved and permitted by the County Highway Department;
- 4) Manure application must be by means of land spreading and incorporation within 48 hours to reduce potential odor issues;
- 5) Review of the site by SWCD for any possible wetland issues;
- 6) Manure stored at this site cannot be stored below grade.

BUSINESS ITEM(S)

Information on Public Hearing at County Board

The official public hearing for the proposed rezoning of property in Moorhead Township that the Planning Commission recently heard and made a recommendation to deny will be heard by the

County Board of Commissioners at 9:00 a.m. on July 7, 2015.

Discussion on 4-lot plat in Moorhead's Extraterritorial Jurisdiction

Tim Magnusson presented information regarding a small platted subdivision that it being proposed to the City of Moorhead. It is on rural property next to Anderson Acres in an area of Oakport Township that is located in Moorhead's 2-mile extraterritorial jurisdiction.

The lots would be 1.3 acres in size and should have adequate space for two septic systems.

Only one lot would access onto a public roadway. The County requests 1.5 acres so these lots are a little substandard. Magnusson noted that there have been some issues with water out there and the applicant should check into that matter first.

On motion by Mike Hulett, seconded by Mark Klevgaard and unanimously carried, the Planning Commission reviewed and concurred with the City of Moorhead's plan to allow development of a 4-lot platted subdivision next to Anderson Acres in an area of Oakport Township that is located in Moorhead's 2-mile extraterritorial jurisdiction.

On motion by Andrea Koczur, and seconded by Tom Jensen, the meeting was adjourned at 8:15 p.m.

Andrea Koczur, Planning Commission Secretary